

Public Law 95-486  
95th Congress

An Act

To provide for the appointment of additional district and circuit judges, and for other purposes.

Oct. 20, 1978

[H.R. 7843]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the President shall appoint, by and with the advice and consent of the Senate, three additional district judges for the northern district of Alabama, one additional district judge for the middle district of Alabama, three additional district judges for the district of Arizona, two additional district judges for the eastern district of Arkansas, one additional district judge for the northern district of California, three additional district judges for the eastern district of California, one additional district judge for the central district of California, two additional district judges for the southern district of California, two additional district judges for the district of Colorado, one additional district judge for the district of Connecticut, one additional district judge for the northern district of Florida, three additional district judges for the middle district of Florida, five additional district judges for the southern district of Florida, five additional district judges for the northern district of Georgia, one additional district judge for the southern district of Georgia, three additional district judges for the northern district of Illinois, one additional district judge for the central district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the southern district of Indiana, one additional district judge for the southern district of Iowa, one additional district judge for the district of Kansas, two additional district judges for the eastern district of Kentucky, four additional district judges for the eastern district of Louisiana, one additional district judge for the middle district of Louisiana, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maine, two additional district judges for the district of Maryland, four additional district judges for the district of Massachusetts, three additional district judges for the eastern district of Michigan, two additional district judges for the western district of Michigan, one additional district judge for the district of Minnesota, one additional district judge for the eastern district of Missouri, two additional district judges for the western district of Missouri, one additional district judge for the district of Nevada, one additional district judge for the district of New Hampshire, two additional district judges for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the northern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the middle district of North Carolina, one additional district judge for the western district of North Carolina, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the northern district of Oklahoma, two additional district judges for the district of Oregon, two additional district judges for the middle district of Pennsylvania, four additional

Federal district  
and circuit  
judges, additional  
appointments.  
District judges.  
28 USC 133 note.

district judges for the district of Puerto Rico, three additional district judges for the district of South Carolina, one additional district judge for the district of South Dakota, one additional district judge for the middle district of Tennessee, three additional district judges for the northern district of Texas, one additional district judge for the eastern district of Texas, five additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the district of Utah, two additional district judges for the eastern district of Virginia, two additional district judges for the western district of Virginia, one additional district judge for the eastern district of Washington, one additional district judge for the western district of Washington, one additional district judge for the southern district of West Virginia, one additional district judge for the eastern district of Wisconsin, and one additional district judge for the western district of Wisconsin.

28 USC 133 note.

(b) The existing district judgeship for the eastern and western districts of Washington, heretofore provided for by section 133 of title 28 of the United States Code, shall hereafter be a district judgeship for the western district of Washington only, and the present incumbent of such judgeship shall henceforth hold his office under section 133, as amended by this Act.

*Infra.*

28 USC 133.

(c) In order that the table contained in section 133 of title 28 of the United States Code will, with respect to each district therein, reflect the changes in the number of judgeships made by this section, such table is amended to read as follows:

| "Districts                 | Judges |
|----------------------------|--------|
| Alabama:                   |        |
| Northern .....             | 7      |
| Middle .....               | 3      |
| Southern .....             | 2      |
| Alaska .....               | 2      |
| Arizona .....              | 8      |
| Arkansas:                  |        |
| Eastern .....              | 3      |
| Western .....              | 1      |
| Eastern and Western .....  | 2      |
| California:                |        |
| Northern .....             | 12     |
| Eastern .....              | 6      |
| Central .....              | 17     |
| Southern .....             | 7      |
| Colorado .....             | 6      |
| Connecticut .....          | 5      |
| Delaware .....             | 3      |
| District of Columbia ..... | 15     |
| Florida:                   |        |
| Northern .....             | 3      |
| Middle .....               | 9      |
| Southern .....             | 12     |
| Georgia:                   |        |
| Northern .....             | 11     |
| Middle .....               | 2      |
| Southern .....             | 3      |
| Hawaii .....               | 2      |
| Idaho .....                | 2      |
| Illinois:                  |        |
| Northern .....             | 16     |
| Central .....              | 3      |
| Southern .....             | 2      |

| Districts                            | Judges |
|--------------------------------------|--------|
| Indiana :                            |        |
| Northern .....                       | 4      |
| Southern .....                       | 5      |
| Iowa :                               |        |
| Northern .....                       | 1      |
| Southern .....                       | 2      |
| Northern and Southern .....          | 1      |
| Kansas .....                         | 5      |
| Kentucky :                           |        |
| Eastern .....                        | 4      |
| Western .....                        | 3      |
| Eastern and Western .....            | 1      |
| Louisiana :                          |        |
| Eastern .....                        | 13     |
| Middle .....                         | 2      |
| Western .....                        | 5      |
| Maine .....                          | 2      |
| Maryland .....                       | 9      |
| Massachusetts .....                  | 10     |
| Michigan :                           |        |
| Eastern .....                        | 13     |
| Western .....                        | 4      |
| Minnesota .....                      | 5      |
| Mississippi :                        |        |
| Northern .....                       | 2      |
| Southern .....                       | 3      |
| Missouri :                           |        |
| Eastern .....                        | 4      |
| Western .....                        | 5      |
| Eastern and Western .....            | 2      |
| Montana .....                        | 2      |
| Nebraska .....                       | 3      |
| Nevada .....                         | 3      |
| New Hampshire .....                  | 2      |
| New Jersey .....                     | 11     |
| New Mexico .....                     | 4      |
| New York :                           |        |
| Northern .....                       | 3      |
| Southern .....                       | 27     |
| Eastern .....                        | 10     |
| Western .....                        | 3      |
| North Carolina :                     |        |
| Eastern .....                        | 3      |
| Western .....                        | 3      |
| Middle .....                         | 3      |
| North Dakota .....                   | 2      |
| Ohio :                               |        |
| Northern .....                       | 9      |
| Southern .....                       | 6      |
| Oklahoma :                           |        |
| Northern .....                       | 2      |
| Eastern .....                        | 1      |
| Western .....                        | 3      |
| Northern, Eastern, and Western ..... | 2      |
| Oregon .....                         | 5      |
| Pennsylvania :                       |        |
| Eastern .....                        | 19     |
| Middle .....                         | 5      |
| Western .....                        | 10     |
| Puerto Rico .....                    | 7      |
| Rhode Island .....                   | 2      |
| South Carolina .....                 | 8      |
| South Dakota .....                   | 3      |
| Tennessee :                          |        |
| Eastern .....                        | 3      |
| Middle .....                         | 3      |
| Western .....                        | 3      |

| "Districts                  | Judges |
|-----------------------------|--------|
| Texas :                     |        |
| Northern .....              | 9      |
| Southern .....              | 13     |
| Eastern .....               | 4      |
| Western .....               | 6      |
| Utah .....                  | 3      |
| Vermont .....               | 2      |
| Virginia :                  |        |
| Eastern .....               | 8      |
| Western .....               | 4      |
| Washington :                |        |
| Eastern .....               | 2      |
| Western .....               | 5      |
| West Virginia :             |        |
| Northern .....              | 1      |
| Southern .....              | 3      |
| Northern and Southern ..... | 1      |
| Wisconsin :                 |        |
| Eastern .....               | 4      |
| Western .....               | 2      |
| Wyoming .....               | 1"     |

28 USC 133 note.

SEC. 2. The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the eastern district of Kentucky, one additional district judge for the district of Minnesota, one additional district judge for the northern district of Ohio, and one additional district judge for the southern district of West Virginia. The first vacancy in the office of district judge in the judicial districts named in this section occurring five years or more after the effective date of this Act shall not be filled.

Vacancies.

Circuit judges.  
28 USC 44 note.

SEC. 3. (a) The President shall appoint, by and with the advice and consent of the Senate, one additional circuit judgeship for the first circuit, two additional circuit judgeships for the second circuit, one additional circuit judgeship for the third circuit, three additional circuit judgeships for the fourth circuit, eleven additional circuit judgeships for the fifth circuit, two additional circuit judgeships for the sixth circuit, one additional circuit judgeship for the seventh circuit, one additional circuit judgeship for the eighth circuit, ten additional circuit judgeships for the ninth circuit, one additional circuit judgeship for the tenth circuit, and two additional circuit judgeships for the District of Columbia.

(b) In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each circuit, reflect the changes in the number of judgeships made by this Act, such table is amended to read as follows:

| "Circuits                  | Number<br>of judges |
|----------------------------|---------------------|
| District of Columbia ..... | 11                  |
| First .....                | 4                   |
| Second .....               | 11                  |
| Third .....                | 10                  |
| Fourth .....               | 10                  |
| Fifth .....                | 26                  |
| Sixth .....                | 11                  |
| Seventh .....              | 9                   |
| Eighth .....               | 9                   |
| Ninth .....                | 23                  |
| Tenth .....                | 8"                  |

28 USC 45 note.

SEC. 4. Section 3 of the Act entitled "An Act to provide that chief judges of circuit courts and chief judges of district courts having three or more judges shall cease to serve as such upon reaching the age of seventy" (Public Law 85-593, approved August 6, 1958 (72 Stat. 497)) is amended by striking out " , except that the amendment made by

28 USC 45 note.

section 136 shall not be effective with respect to any district having two judges in regular active service so long as the district judge holding the position of chief judge of any such district on such date of enactment continues to hold such position”.

SEC. 5. (a) Section 46(c) of title 28 of the United States Code is amended—

(1) in the first sentence, by striking out “division” and inserting “panel” in lieu thereof; and

(2) by striking out the third sentence.

(b) The heading of section 46 of title 28 of the United States Code is amended by striking out “divisions” and inserting “panels” in lieu thereof.

(c) The item relating to section 46 in the table of sections for chapter 3 of title 28 of the United States Code is amended by striking out “divisions” and inserting “panels” in lieu thereof.

SEC. 6. Any court of appeals having more than 15 active judges may constitute itself into administrative units complete with such facilities and staff as may be prescribed by the Administrative Office of the United States Courts, and may perform its en banc function by such number of members of its en banc courts as may be prescribed by rule of the court of appeals.

Appeals court  
units.  
28 USC 41 note.

SEC. 7. (a) The first section and section 2 of this Act shall take effect immediately upon the President's promulgation and publication of standards and guidelines for the selection, on the basis of merit, of nominees for United States district court judgeships authorized by this Act.

28 USC 133 note.

(b) The President may waive such standards and guidelines with respect to any nomination by notifying the Senate of the reasons for such waiver.

Waiver,  
notification to  
Senate.

(c) Following the promulgation and publication of such standards and guidelines, no nomination or appointment to a United States district court judgeship may be invalidated on the basis of the President's failure to comply with this section or with any standards or guidelines promulgated under this section.

(d) This Act, other than the first section and section 2, shall take effect on the date of enactment of this Act.

SEC. 8. The Congress—

28 USC 133 note.

(1) takes notice of the fact that only 1 percent of Federal judges are women and only 4 percent are blacks; and

(2) suggests that the President, in selecting individuals for nomination to the Federal judgeships created by this Act, give due consideration to qualified individuals regardless of race, color, sex, religion, or national origin.

SEC. 9. (a) Section 1337 of title 28 of the United States Code is amended to read as follows:

**“§ 1337. Commerce and antitrust regulations; amount in controversy, costs**

“(a) The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies: *Provided, however,* That the district courts shall have original jurisdiction of an action brought under section 20(11) of part I of the Interstate Commerce Act (49 U.S.C. 20(11)) or section 219 of part II of such Act (49 U.S.C. 319), only if the matter in con-

troversty for each receipt or bill of lading exceeds \$10,000, exclusive of interest and costs.

“(b) Except when express provision therefor is otherwise made in a statute of the United States, where a plaintiff who files the case under section 20(11) of part I of the Interstate Commerce Act (49 U.S.C. 20(11)) or section 219 of part II of such Act (49 U.S.C. 319), originally in the Federal courts is finally adjudged to be entitled to recover less than the sum or value of \$10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of any interest and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.”

(b) Subsection (b) of section 1445, of title 28 of the United States Code is amended by striking out “\$3,000” and inserting in lieu thereof “\$10,000”.

(c) The item relating to section 1337 in the table of sections for chapter 85 of title 28 of the United States Code is amended to read as follows:

“1337. Commerce and antitrust regulations; amount in controversy, costs.”.

Position  
classifications.

SEC. 10. Section 5108(c)(3) of title 5, United States Code, is amended to read as follows:

“(3) the Director of the Administrative Office of the United States Courts, subject to the standards and procedures prescribed by this chapter, may place a total of 15 positions in GS-16, 17, and 18;”.

5 USC 5332 note.  
28 USC 133 note.

SEC. 11. Notwithstanding any other provision of this Act, the first section and section 2 shall not take effect before November 1, 1978.

Appropriation  
authorization.

SEC. 12. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved October 20, 1978.

#### LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-858 (Comm. on the Judiciary) and No. 95-1643 (Comm. of Conference).

SENATE REPORTS: No. 95-117 accompanying S. 11 (Comm. on the Judiciary) and No. 95-1257 (Comm. of Conference).

#### CONGRESSIONAL RECORD:

Vol. 123 (1977): May 23, 24, S. 11 considered and passed Senate.

Vol. 124 (1978): Feb. 7, considered and passed House; considered and passed Senate, amended, in lieu of S. 11.

Sept. 28, Conference report filed in disagreement in House.

Oct. 4, House concurred in Senate amendment with an amendment.

Oct. 7, Senate agreed to conference report; concurred in House amendment.

#### WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 42 (1978): Oct. 20, Presidential statement.